

Remarks

The Examiner is thanked for the courtesies extended during the telephonic interview of August 20, 2008. The substance of the discussion and the citations provided are included in the discussion below.

Drawings

The drawings were objected to under 37 CFR 1.83(a). While the applicant believes that Fig. 1 and the specification provides support for a transport device (8), claim 11 has been amended to remove references to the transport device. Removal of the objection is respectfully requested.

Specification

The specification was objected to as failing to provide a written description for claimed subject matter regarding a transport device. Again, while the applicant believes that the specification provides support for a transport device (8) (See paragraph 45), claim 11 has been amended to remove references to the transport device. This is believed to alleviate the objection regarding the transport device. Removal of the objection is respectfully requested.

The specification was also objected to as failing to provide a written description for claimed subject matter regarding the shape of the test elements. Applicant is unclear as to what problem the Official Action is citing. The claim language regarding the shape of the test elements reads on a circular test element. Accordingly, the claim language is supported by a written description. The more broad language used does not prevent the language from being supported. Furthermore, Applicant directs attention to paragraphs 41-43 which discuss non-circular test elements. Removal of the objection is respectfully requested.

The specification was also objected to as failing to provide a written description for claimed subject matter regarding the height of the test elements discussed in claim 40. Paragraph 58 discusses that the "take out slot ... is a little higher than the thickness d of a test element, thus allowing to take out one test element at a time by a gripping fork." One skilled in the art would appreciate that this statement supports the claim language of "the slot having a height greater than the thickness of a test element and less than twice the thickness of a test element-whereby one test element at a time can be taken out of the magazine

through the take out slot by means of a gripping device." Removal of the objection is respectfully requested.

Withdrawn Claims

In the event that independent claim 11 is found to be allowable, examination of the withdrawn claims that depend therefrom is hereby requested.

If additional time is required, please consider this a petition therefore and charge any shortages in fees, or apply any overpayment credits, to Baker & Daniels LLP's Deposit Account No. 02-0390 (975270.66). However, please do not include the payment of issue fees.

Respectfully submitted,

/Ryan C. Barker/

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